

U.S. Customs Service

Proposed Rulemaking

19 CFR Parts 4 and 113

RIN 1515-AC58

DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to set forth procedures for the deferral of entry filing and duty collection on certain yachts imported for sale at boat shows in the United States. The proposed regulatory amendments reflect a change in the law effected by section 2406 of the Miscellaneous Trade and Technical Corrections Act of 1999.

DATES: Comments must be received on or before August 14, 2000.

ADDRESSES: Written comments may be addressed to, and inspected at, the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

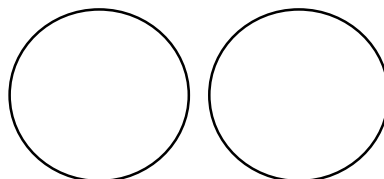
Legal matters: Larry L. Burton, Office of Regulations and Rulings (202-927-1287).

Operational matters: Robert Watt, Office of Field Operations (202-927-3654).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 2406(a) of the Miscellaneous Trade and Technical Corrections Act of 1999 (the Act, Public Law 106-36, 113 Stat. 127) amended the Tariff Act of 1930 by the addition of a new section 484b

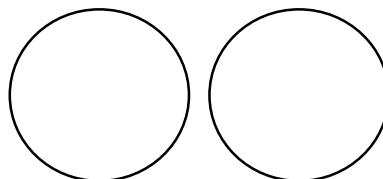


(19 U.S.C. 1484b). Section 484b provides that an otherwise dutiable “large yacht” (defined in the section as “a vessel that exceeds 79 feet in length, is used primarily for recreation or pleasure, and has been previously sold by a manufacturer or dealer to a retail consumer”) may be imported without the payment of duty if the yacht is imported with the intention to offer for sale at a boat show in the United States. The statute provides generally for the deferral of payment of duty until the yacht is sold but specifies that the duty-deferral period may not exceed 6 months.

In order to qualify for deferral of duty payment at the time of importation of a large yacht, the statute provides that the importer of record must: (1) certify to Customs that the yacht is imported pursuant to section 484b for sale at a boat show in the United States; and (2) post a bond, having a duration of 6 months after the date of importation, in an amount equal to twice the amount of duty on the yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The statute further provides that if the yacht is sold within the 6-month period after importation, or if the yacht is neither sold nor exported within the 6-month period after importation, entry must be completed and duty must be deposited with Customs (with the duty calculated at the applicable HTSUS rate based on the value of the yacht at the time of importation) and the required bond will be returned to the importer. The statute further provides that no extensions of the 6-month bond period will be allowed, that any large yacht exported in compliance with the 6-month bond period may not be reentered for purposes of sale at a boat show in the United States (in order to receive duty-deferral benefits) for a period of 3 months after that exportation, and that the Secretary of the Treasury is authorized to make rules and regulations as may be necessary to carry out the provisions of the statute. Finally, under section 2406(b) of the Act, the amendment made by section 2406(a) of the Act applies with respect to any large yacht imported into the United States after July 10, 1999.

In order to reflect the terms of new section 484b, Customs proposes in this document to amend the Customs Regulations by the addition of a new § 4.94a (19 CFR 4.94a). In addition, Customs proposes to amend Part 113 of the Customs Regulations (19 CFR Part 113), which sets forth provisions regarding Customs bonds, by the addition of a new § 113.75 and a new Appendix provision setting forth the text of the bond required to be posted by the importer of record under new section 484b.

In light of the above statutory amendment and its effective date, and pending adoption of appropriate amendments to the Customs Regulations, Customs formulated and implemented interim



nonregulatory procedures for processing the arrival of qualifying yachts under the statutory provision in order to ensure that the public receives the benefits under the statute as intended by Congress. Those interim procedures, which included special bond requirements, will cease to apply upon the effective date of final action on the regulatory proposals set forth in this document.

COMMENTS

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

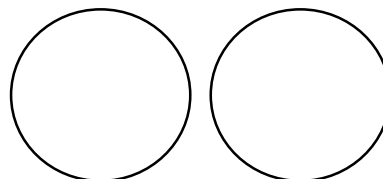
Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments directly reflect a statutory provision that accords procedural and financial benefits to members of the general public who import large yachts for purposes of sale. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Furthermore, this document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

PAPERWORK REDUCTION ACT

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in this document is in § 4.94a. This information is required and will be used to effect the deferral of duty collection on certain pleasure vessels, in order to ensure enforcement



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of the Customs and related laws and the protection of the revenue. The likely respondents are owners of large pleasure vessels.

Estimated annual reporting and/or recordkeeping burden: 28 hours.

Estimated average annual burden per respondent/recordkeeper: 1 hour.

Estimated number of respondents and/or recordkeepers: 28.

Estimated annual frequency of responses: 1.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

LIST OF SUBJECTS

19 CFR Part 4

Customs duties and inspection, Entry, Imports, Reporting and recordkeeping requirements, Vessels, Yachts.

19 CFR Part 113

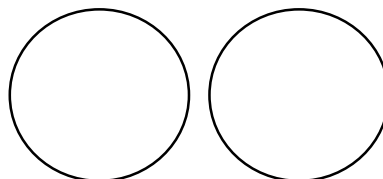
Bonds, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Surety bonds, Vessels.

PROPOSED AMENDMENTS TO THE REGULATIONS

For the reasons stated above, it is proposed to amend Parts 4 and 113, Customs Regulations (19 CFR Parts 4 and 113), as set forth below.

PART 4--VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for Part 4 continues to read, and a specific authority citation for § 4.94a is added to read, as follows:



Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.

Section 4.94a also issued under 19 U.S.C. 1484b;

2. A new § 4.94a is added to read as follows:

§ 4.94a Large yachts imported for sale.

(a) *General.* An otherwise dutiable vessel used primarily for recreation or pleasure and exceeding 79 feet in length that has been previously sold by a manufacturer or dealer to a retail consumer and that is imported with the intention to offer for sale at a boat show in the United States may qualify at the time of importation for a deferral of entry completion and deposit of duty. The following requirements and conditions will apply in connection with a deferral of entry completion and duty deposit under this section:

(1) The importer of record must certify to Customs in writing that the vessel is being imported pursuant to 19 U.S.C. 1484b for sale at a boat show in the United States;

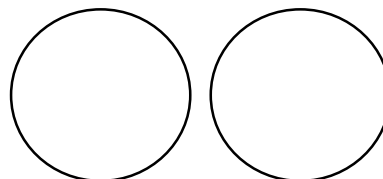
(2) The certification referred to in paragraph (a)(1) of this section must be accompanied by the posting of a single entry bond containing the terms and conditions set forth in appendix C of part 113 of this chapter. The bond will have a duration of 6 months after the date of importation of the vessel, and no extensions of the bond period will be allowed;

(3) The filing of the certification and the posting of the bond in accordance with this section will constitute a release of the merchandise by Customs;

(4) All subsequent transactions with Customs involving the vessel in question, including any transaction referred to in paragraphs (b) through (d) of this section, must be carried out in the same port of entry in which the certification was filed and the bond was posted under this section; and

(5) The vessel in question will not be eligible for issuance of a cruising license under § 4.94.

(b) *Exportation within 6-month period.* If a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section is not sold but is exported within the 6-month bond period specified in paragraph (a)(2) of this section, the importer of record must inform Customs in writing of that fact within 30 calendar days after the date of exportation. The bond posted with Customs will be returned to the importer of record and no entry completion and duty payment will be required. The exported vessel will be precluded from reentry under



the terms of paragraph (a) of this section for a period of 3 months after the date of exportation.

(c) *Sale within 6-month period.* If a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section is sold within the 6-month bond period specified in paragraph (a)(2) of this section, the importer of record within 15 calendar days after the sale must complete the entry by filing an Entry Summary (Customs Form 7501) and must deposit the appropriate duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the vessel at the time of importation). Upon entry completion and deposit of duty under this paragraph, the bond posted with Customs will be returned to the importer of record.

(d) *Expiration of bond period.* If the 6-month bond period specified in paragraph (a)(2) of this section expires without either sale or exportation of a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section, the importer of record within 15 calendar days after expiration of that 6-month period must complete the entry by filing an Entry Summary (Customs Form 7501) and must deposit the appropriate duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the vessel at the time of importation). Upon entry completion and deposit of duty under this paragraph, the bond posted with Customs will be returned to the importer of record, and a new bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, may be required by the appropriate port director.

PART 113--CUSTOMS BONDS

1. The general authority citation for Part 113 continues to read, and a specific authority citation for § 113.75 and Appendix C is added to read, as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

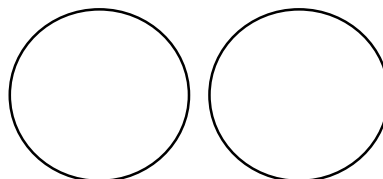
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Section 113.75 and Appendix C also issued under 19 U.S.C. 1484b.

2. Part 113 is amended by adding a new § 113.75 to read as follows:

§ 113.75 Bond conditions for deferral of duty on large yachts imported for sale at United States boat shows.

A bond for the deferral of entry completion and duty deposit pursuant to 19 U.S.C. 1484b for a dutiable large yacht imported for sale at a United States boat show must conform to the terms of appendix C to this part. The bond must be filed in accordance with the provisions set forth in § 4.94a of this chapter.



3. Part 113 is amended by adding at the end a new appendix C to read as follows:

APPENDIX C TO PART 113--BOND FOR DEFERRAL OF DUTY ON
LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES
BOAT SHOWS

BOND FOR DEFERRAL OF DUTY ON
LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS

_____, as principal, and
_____, as surety, are held and firmly bound to the
UNITED STATES OF AMERICA in the sum of
_____ dollars (\$_____), for the payment of
which we bind ourselves, our heirs, executors, administrators,
successors, and assigns, jointly and severally, firmly by these
conditions.

Pursuant to the provisions of 19 U.S.C. 1484b, the principal has
imported at the port of _____ a dutiable large
yacht (exceeding 79 feet in length, used primarily for recreation or
pleasure, and previously sold by a manufacturer or dealer to a
consumer) identified as _____ for sale at
a boat show in the United States with deferral of entry completion and
duty deposit and has executed this obligation as a condition precedent
to that deferral.

If the principal fails to comply with any condition of this obligation,
which includes compliance with any requirement or condition set forth
in 19 U.S.C. 1484b or 19 CFR 4.94a, the principal and surety jointly
and severally agree to pay to Customs an amount of liquidated
damages equal to twice the amount of duty on the large yacht that
would otherwise be imposed under subheading 8903.91.00 or
8903.92.00 of the Harmonized Tariff Schedule of the United States. For
purposes of this paragraph, the term "duty" includes any duties, taxes,
fees and charges imposed by law.

The principal will exonerate and hold harmless the United States and
its officers from or on account of any risk, loss, or expense of any kind
or description connected with or arising from the failure to store and
deliver the large yacht as required, as well as from any loss or damage
resulting from fraud or negligence on the part of any officer, agent, or
other person employed by the principal.

WITNESS our hands and seals this _____ day of
_____ (month), _____ (Year).

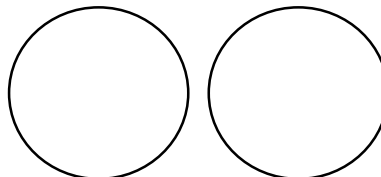
(Name)

(Address)

(Principal)

[SEAL]

[SEAL]



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(Name) (Address) (Surety)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the
* _____ of the corporation named as
principal in the attached bond; that _____,
who signed the bond on behalf of the principal, was then
_____ of that corporation; that I know his
signature, and his signature to the bond is genuine; and that the bond
was duly signed, sealed, and attested for and in behalf of the
corporation by authority to its governing body.

_____[CORPORATE SEAL]

*(To be used when no power of attorney has been filed with the port
director of customs.)*

** May be executed by the secretary, assistant secretary, or other officer
of the corporation.*

RAYMOND W. KELLY,
Commissioner of Customs.

Approved: April 14, 2000.

JOHN P. SIMPSON,

Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, June 15, 2000 (65 FR 37501)]

